Remarks

Claims 1-24 remain pending in the application and currently stand rejected. Claims 1, 9 and 17 are amended herein. The Assignee respectfully traverses the rejections and requests allowance of claims 1-24.

Claim Amendments

Claim 1 is amended to indicate that the RMON manager is "configured to access the RMON probe" referenced earlier in the claim, and that the RMON database is "configured to be accessed by the RMON manager." Claims 9 and 17 have been amended in a similar fashion. Support for these claims appears in Fig. 23, and page 41, line 28, to page 42, line 4.

Claim 9 is also amended to change the first occurrence of "the performance management system" to "a performance management system" to provide proper antecedent basis for the term within claim 9.

Claim 17 is further amended to change all occurrences of "performance management system" to "RMON management system" to remain consistent with the preamble of each of claims 17-24. Also, the phrase "for an RMON database" is deleted in keeping with the structure of the remainder of claim 17.

Claim Rejections Under 35 U.S.C. § 112

Claims 9 and 17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. (Page 2 of the Office action.) More specifically, insufficient antecedent basis is provided in claims 9 and 17 for the first occurrence of the phrase "the performance management system." *Id.* In response, claim 9 is amended to alter the phrase in question to "a performance management system." Also, claim 17 is amended to change all references of "performance management system" to "RMON management system," as is employed in the preamble of that claim.

In light of these amendments, the Assignee contends that claims 9 and 17 are now definite under 35 U.S.C. § 112, second paragraph, and respectfully requests withdrawal of the indefiniteness rejection.

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Claim Rejections Under 35 U.S.C. § 102

Claims 1-4, 9-12 and 17-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,697,871 to Hansen (hereinafter "Hansen"). (Page 3 of the Office action.) The Assignee respectfully traverses the rejection in light of the current amendments to claims 1, 9 and 17, and the following discussion.

Amended claim 1 provides a method that includes, in part, generating and transmitting instructions to each of a Remote Monitoring (RMON) probe, an RMON manager, and an RMON database, each of which provides RMON information that is received and stored in a memory of a performance management system. Also, claim 1 indicates that the RMON manager is configured to access both the RMON probe and the RMON database. Amended claim 9 (directed to a software product) and amended claim 17 (directed to an RMON management system) incorporate similar provisions.

Hansen discloses a distributed-network management monitoring system 200 incorporating a distributed-network analyzing console 202, a remote distributed-network analyzing console 204, and several network analyzing agents 214. (Fig. 2.) The network analyzing agents 214, which may be RMON probes (see column 1, lines 55-59), "gather data and send the data to the distributed-network analyzing console 202." (Column 5, lines 11-14.) The distributed-network analyzing console 202 and the remote distributed analyzing console 204 each collect the data from its associated network analyzing agents 214 and store it in a management information database, such as MIB 420. (Column 5, lines 15-24.) In one embodiment, random access memory (RAM) 306 residing in a network analyzing console 300, which can be either a distributed-network analyzing console 202 or remote distributed-network analyzing console 204, holds the management information database (MIB) 420. (Fig. 3; and column 3, line 54, to column 4, line 13.) Also, "all data may be stored within one distributed-network analyzing console 202. Once data is consolidated and processed into meaningful information, remote distributed-network analyzing console 204 sends information to the distributed-network analyzing console 202." (Column 5, lines 25-30.)

The Office action appears to equate the network analyzing agent 214 with the RMON probe referred to in claim 1, the remote distributed-network analyzing console 204 with the RMON manager and the RMON database referred to in claim 1, and the distributed-network

analyzing console 202 with the performance management system claimed in claim 1. As a result, the Office action indicates that the operation of the distributed-network management monitoring system 200 of Fig. 2 anticipates the method of claim 1. (Page 3 of the Office action.) However, neither the distributed-network analyzing console 202, nor any other apparatus disclosed in Hansen, performs the method for operating a performance management system, as set forth in amended claim 1.

More specifically, the system 200 of Hansen is generally indicated by the prior art diagram of Fig. 22 of the present application. More specifically, each of the network analyzing agents 214 of Hansen is represented in Fig. 22 in the present application by the RMON probe 2210. Similarly, each of the network analyzing consoles 202, 204, by way of their communication with their associated network analyzing agents 214 as described above, are analogous to the NetScout Manager 2220, while the management information database (MIB) 420 within a network analyzing console 202, 204 may be identified with the RMON database 2230.

However, the claims of the present application provide for an additional system, a performance management system which communicates with each of an RMON probe, an RMON database, and an RMON manager configured to access the RMON probe and the RMON database. Thus, the RMON probe, the RMON manager and the RMON database are *separate* from the performance management system as referenced in claims 1, 9 and 17. Hansen does not mention a separate performance management system communicating with each of the analyzing consoles 202, 204, the network analyzing agents 214, and the MIB 420.

Instead, Hansen indicates that "data may be communicated and shared between the various network analyzing consoles," but that each of the consoles "*stores data gathered only within its domain of control.*" (Column 5, lines 20-24; emphasis supplied.) In this case, the domain of control of a console would be an agent 214 or an MIB 420 with which it communicates directly. Thus, the distributed-network analyzing console 202 may receive RMON information from the remote distributed-network analyzing console 204 (i.e., an RMON manager), as described above, but *cannot* send instructions to receive RMON information from an RMON database (e.g., the MIB 420) or an RMON probe (e.g., agent 214) configured to be accessed by the remote distributed-network analyzing console 204, as this particular database and probe are not within the domain of control of the distributed-network analyzing console 202.

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In other words, no apparatus of Hansen sends instructions for RMON information to, and then receives RMON information from, each of an RMON probe, an RMON manager configured to access the RMON probe, and an RMON database configured to be accessed by the RMON manager, as provided for in amended claims 1, 9 and 17.

Thus, the Assignee contends that Hansen does not teach or suggest the various elements of claims 1, 9 and 17, and such indication is respectfully requested.

In addition, claims 2-4 depend from independent claim 1, claims 10-12 depend from independent claim 9, and claims 18-20 depend from independent claim 17, and thus incorporate the limitations of their corresponding independent claims. Thus, the Assignee asserts that claims 2-4, 10-12 and 18-20 are allowable for at least the reasons given above with respect to independent claims 1, 9 and 17, and such indication is respectfully requested.

Therefore, given the foregoing discussion, the Assignee respectfully requests the withdrawal of the rejection of claims 1-4, 9-12 and 17-20.

Claim Rejections Under 35 U.S.C. § 103

Claims 5, 13 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hansen in view of U.S. Patent No. 6,112,241 to Abdelnour et al. (hereinafter "Abdelnour"). The Assignee respectfully traverses the rejection in light of the foregoing remarks regarding Hansen.

In addition, Abdelnour discusses a LAN switch with an integrated RMON probe, and mentions a prior-art network management workstation, such as that indicated by the NetScout Manager 2220 of prior-art Figure 22 of the present application. (Abstract; column 3, lines 1-12; and column 1, lines 31-58, of Abdelnour.) However, like Hansen, Abdelnour does not teach or suggest a performance management system as referenced in claims 1, 9 and 17, which is a separate entity from an RMON manager. Thus, neither Hansen, nor Abdelnour, nor any combination thereof, teach or suggest the subject matter of claims 1, 9 and 17.

Further, claim 5 depends from independent claim 1, claim 13 depends from independent claim 9, and claim 21 depends from independent claim 17, thus incorporating the limitations originally presented in their associated independent claims. Thus, the Assignee contends that these claims are allowable for at least the reasons presented above in support of claims 1, 9 and 17. Therefore, the Assignee respectfully requests withdrawal of the rejection of claims 5, 13 and 21.

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Claims 6-8, 14-16 and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hansen in view of U.S. Patent No. 6,363,477 to Fletcher et al. (hereinafter "Fletcher"). The Assignee respectfully traverses the rejection in light of the foregoing remarks regarding Hansen.

In addition, Fletcher discloses the monitoring of network traffic by "a server- and client-implemented process that determines application information and performance statistics associated with network applications used by client and server computer systems in both unencrypted and encrypted network environments. The present invention is implemented using a software module inserted between the application layer, specifically the application program interface, and the protocol stack in a computer system." (Column 9, lines 42-49.) No mention is made of remote monitors other than in the background section of Fletcher. Thus, Fletcher does not teach or suggest a performance management system as described in claims 1, 9 and 17.

Further, claims 6-8 depend from independent claim 1, claims 14-16 depend from independent claim 9, and claims 22-24 depend from independent claim 17, and thus incorporate the limitations presented in their corresponding independent claims. Therefore, the Assignee asserts that these claims are allowable for at least the reasons presented above in support of claims 1, 9 and 17. The Assignee thus respectfully requests withdrawal of the rejection of claims 6-8, 14-16 and 22-24.
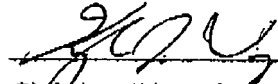

Conclusion

The additional prior art made of record and not relied upon (i.e., U.S. Patent No. 6,612,241 to Avetisian) has been reviewed and is not considered to teach or suggest the current invention as claimed.

Based on the above remarks, the Assignee submits that claims 1-24 are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance of claims 1-24.

The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

Date: _8/17/05_

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